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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/605,965	06/28/2000	Yukio Tada	39303-20145.00	5999

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EXAMINER

LAO, LUN S

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 11/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/605,965

Applicant(s)

TADA, YUKIO

Examiner

Lun-See Lao

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### *Introduction*

1. Claims 1-6 of U.S. application 09/605,965 filed on 06/08/1998 are presented for examination.

### ***Claim Objections***

2. Claim 3 is objected to because of the following informalities: Claim 3 recites "downloadsthe the music data" on line 22, which appears to be "downloads the music data". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over author admitted prior art (page 1, line 10 - page 3, line 14, fig. 4, hereafter APA) in view of Tsurumi et al (US Pat. 5,890,910).

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Regarding claim 1, APA teaches a download system for a portable player, comprising:

a portable player (portable player) including a storage medium (storage medium) that stores music data (music data) (page 1, lines 10-14);

a download device (PC 4) that downloads previously stored music data to the storage medium of the portable player (downloads, page 2, lines 5-9).

APA does not teach that the music data has type data, nor a center station that transmits music data having type data to the download device.

Tsurumi teaches a download system (fig. 1), wherein the music data (music-piece file) has type data (release number). Tsurumi also teaches a center station (host 1) transmits music data having type data (download release file) to a download device (terminal 3). See col. 3, lines 16-42; col. 5, lines 7-18.

Therefore, it would have been obvious to use type data with the music data of APA and to include in the system of APA a center station that transmits music data having type data to the download device. One of ordinary skill in the art would have been motivated to combine the teachings of APA and Tsurumi because this would have sped up the downloading process by storing/saving only necessary/timely information (col. 5, lines 7-18), which is desirable in APA (APA, page 3, lines 4-7).

Regarding claim 2, APA teaches the download device comprises a table (table) on which the portable player is placed when music data is downloaded to the portable player (page 1, lines 27-30). APA does not teach the reception device, input device, data memory device and control device.

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Tsurumi teaches the downloading system including  
a reception device (communication control unit 12), that receives the music data having the type data transmitted from the center station;  
an input device ( terminal) that inputs type data of desired music required by a user (requirement transmitted from a terminal, col. 7, lines 46-52);  
a data memory device (storing unit 11) that stores the music data transmitted from the center station; and  
a control device (control unit 10) that operates based on the type data of the music data received by the reception device (downloaded release files), the type data of the music data previously stored in the storage medium of the portable player (necessary information file list), and the type data input by the input device (requirement, edited), to control selection of the music data from the center station, storage of the selected music data in the data memory device, and downloading of the music data to the storage medium of the portable player (col. 6, lines 1-59).

Therefore, it would have been obvious to include the reception device, input device, data memory device and control device into the system of APA as modified. Note discussion of claim 1 for a motivation to combine.

Regarding claim 3, APA as modified teaches (Tsurumi) the control device comprises:

a known type data read-in device (terminal, including means for editing) that reads in, as known type data, the type data of the music data stored in the storage

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medium of the portable player (necessary information file list) when the portable player is placed on the table;

a desired type read-in device (terminal) that reads in, as desired type data, the type data input by the user using the input device (requirement/edited);

a new type data read-in device (communication control unit 12, control unit 10) that reads in, as new type data, the type data of the music data received (downloaded release file) by the reception device;

a determination device (control unit 10) that determines whether or not the desired type data is equal to the new type data and the new type data is different from the known type data (fig. 4);

a data storing device (storing unit 11) that stores the music data transmitted from the center station in the data memory device when the determination device determines that the desired type data is equal to the new type data and the new type data is different from the known type data (col. 6, lines 1-59);

a downloading device (communication control unit 12) that downloads the music data stored in the data memory device by the data storage device to the storage medium of the portable player; and

a type data rewrite device (storing unit 11, control unit 10) that rewrites the new type data as known type data (update information, write newly released files to storage area, col. 6, lines 52-59). Note discussion of claim 1 for a motivation to combine.

Regarding claim 4, APA teaches the storage medium of the portable player comprises a writable ROM (EEP-ROM), and wherein the download device includes an

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encoding device that encodes music data into MPEG codes (MPEG encoder) when downloading the music data to the ROM. See page 2, lines 5-10, 20-27.

Regarding claim 5, it is a method claim of claim 3 and thus note claim 3 for discussion.

Regarding claim 6, it is a program product claim of claim 5, and thus note claim 5 for discussion.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Martin (US PAT 5,355,302), Funahashi (US PAT 5,619,425), Tsurumi (US PAT 5,824,934), Jaisimha (US PAT. 6,487,663) and Wachi (US PAT 5,588,386) are recited to show other inventions related to download system, download control method, and storage medium for portable players.

6. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to: (703) 872-9314

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lao, Lun-See whose telephone number is (703) 305-2259. The examiner can normally be reached on Monday-Friday from 8:00 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

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supervisor, Curtis Kuntz, can be reached on (703) 305-4708

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 whose telephone number is (703) 306-0377.

Lao, Lun-See  
Patent Examiner  
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(703305-2259

  
DUC NGUYEN  
PRIMARY EXAMINER